

**FILED**

**FEB 21 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MARVIN EARL WALL,

Plaintiff - Appellant,

v.

CHARLES WILSON; et al.,

Defendants - Appellees.

No. 05-15402

D.C. No. CV-02-04570-TEH

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
Thelton E. Henderson, District Judge, Presiding

Submitted February 13, 2006<sup>\*\*</sup>

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Marvin Earl Wall, a California state prisoner, appeals pro se from the district court's judgment in favor of defendants in his 42 U.S.C. § 1983 action

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

alleging deliberate indifference to his medical needs stemming from an infection in his right ear. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal for failure to state a claim, *Nelson v. Heiss*, 271 F.3d 891, 893 (9th Cir. 2001), and its grant of summary judgment, *Morrison v. Hall*, 261 F.3d 896, 900 (9th Cir. 2001). We affirm.

The district court properly dismissed Wall's claim against defendant Allen because Wall failed to allege conduct by Allen amounting to deliberate indifference to his serious medical needs. *See Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

The district court properly granted summary judgment in favor of defendants Escobar and Wilson because Wall failed to raise a triable issue of fact as to whether they were deliberately indifferent to his serious medical needs. *See Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996). Wall's disagreement with Wilson's course of treatment is not sufficient. *See id.* (holding a difference in opinion between the physician and the prisoner concerning the appropriate course of treatment does not amount to deliberate indifference to serious medical needs).

Wall's remaining contentions are without merit.

**AFFIRMED**